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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 9 April 2001 from the Permanent Representative of Malaysia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to transmit to you in my capacity as the Chairman of the Organization of the Islamic Conference in Geneva, a statement adopted by the OIC Contact Group on Jammu and Kashmir, along with a memorandum presented to the Group by the true representatives of Jammu and Kashmir. The meeting was held at the United Nations Office in Geneva on 5 April 2001.

I would be grateful if you could kindly have the statement and the memorandum* circulated as official documents of the fifty-seventh session of the Commission on Human Rights, under agenda items 5 and 9.

(Signed): RAJMAH Hussain
Ambassador
Permanent Representative
Chairperson of the Organization of the
Islamic Conference in Geneva

* Reproduced as received, in the language of submission only.

Annex

Statement on Jammu and Kashmir adopted by the OIC Contact Group on Jammu and Kashmir at its meeting during the 57th Session of the United Nations Commission on Human Rights in Geneva, April 5, 2001

The OIC Contact Group on Jammu and Kashmir, which met on the occasion of the 57th Session of the United Nations Commission on Human Rights, expressed its deep concern over the situation of Human Rights in Jammu and Kashmir. The group noted reports of gross and consistent human rights violations, beyond the so-called "non-initiation of combat operations" in Occupied Kashmir.

The Meeting was guided by all OIC Summit and Ministerial Declarations and Resolutions on Jammu and Kashmir.

The Meeting recalled UN Security Council resolutions 47(1948), 51(1948), 80(1950), 91(1951) as well as United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949 that stipulate that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

The Meeting called for an immediate end to the gross and consistent violations of human rights and, in this regard, reiterated the determination of OIC Member States to continue their efforts for the full protection of the fundamental human rights of the people of Jammu and Kashmir. It called for grant of access to international human rights bodies, the special mechanisms of CHR, and international media in Jammu and Kashmir to regularly monitor the human rights situation .

The meeting expressed support for Pakistan's repeated offer of talks to India. The Contact Group conveyed their support for the efforts of the Government of Pakistan to resolve through a serious, substantial and meaningful dialogue the Jammu and Kashmir dispute which is the basic cause of tension between India and Pakistan. The meeting welcomed the December 2, 2000 statement by Pakistan and urged an early resumption of the dialogue on all issues including the core issue of Jammu and Kashmir.

The Meeting affirmed once again the commitment of the OIC to promote a just and peaceful solution to the Jammu and Kashmir dispute in accordance with the United Nations resolutions and expressed their resolve to seek the effective realization of the right of self-determination of the Kashmiri people.

The Meeting took note of the Memorandum presented by the True Representatives of the Kashmiri people to the OIC Contact Group and decided to transmit it, along with the Statement adopted at the meeting, to the 57th UNCHR to be adopted and circulated as official documents

Memorandum presented by the True Representatives of the Kashmiri people to the OIC Contact Group on Jammu and Kashmir On April 5, 2001 during the 57th Session of the UNHCR at Geneva

We, the True Representatives of the oppressed Kashmiri people:

Recalling the relevant resolutions of the United Nations Security Council and also United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, upholding the right to self-determination of the people of Jammu and Kashmir;

Recalling all OIC Summit and Ministerial Resolutions and Declarations on Jammu and Kashmir;

Also recalling the Special Declaration of the Extraordinary Session of the Islamic Summit Conference on Jammu and Kashmir adopted on 23 March 1997;

Welcoming the reaffirmation of the commitment of the OIC and its Member States as reflected in the Tehran Summit Declaration of 11 December 1997 and the 25th, 26th and the 27th Islamic Conferences of Foreign Ministers held in 1998, 1999 and 2000 to promote a just and peaceful solution of the Jammu and Kashmir dispute in accordance with the relevant resolutions of the United Nations Security Council and their support to the fundamental human rights of the Kashmiri people, including their right to self-determination;

Expressing deep gratitude to the OIC and its Member States for their unequivocal support for the Kashmiri people's right to self-determination and for their condemnation of the repression and massive human rights violations in Indian occupied Jammu and Kashmir;

Rejecting Indian efforts to impose sham elections, including the so-called Panchayat elections, as they are not a substitute for the freely exercised right of the Kashmiri people to self-determination;

Categorically rejecting Preconditions imposed by India for resumption of talks particularly restricting them within framework of the Indian Constitution;

Reaffirming that any agreement on Jammu and Kashmir should be predicated on the wishes of the Kashmiri people as enshrined in the relevant UN Security Council Resolutions;

Condemning the serious crimes and atrocities, massacres, extra-judicial killings, custodial deaths, reprisal killings, arbitrary detentions, torture, burning of houses, villages and townships and the use of rape as an instrument of suppression by the Indian Government through its military and para-military personnel and mercenaries which have claimed more than 75,000 innocent lives in Jammu and Kashmir during the last eleven years;

Reaffirming the Kashmiri peoples support for multi-ethnicity and multi culturalism as essential ingredients of life in Jammu Kashmir.

Deploring the massacre of 35 Sikhs in Chattisinghpura in March 2000 and the Indian attempt to implicate in the dastardly and criminal act innocent Muslim civilians, who were killed in a fake encounter with the Indian force;

Further condemning the killings of more than a hundred civilians in Indian Occupied Kashmir in a series of attacks on August 1 and 2, 2000;

Condemning the rejection by the Indian Government of the demand for an impartial investigation into the killings at Pahalgam on August 1, 2000, most of which resulted from firing by the Indian forces;

Denouncing India's use of mercenaries and renegades for killing Kashmiris and to exploit these incidents for propaganda against the Kashmiri freedom struggle and Pakistan;

Further condemning the destruction and desecration of the Islamic holy places in occupied Kashmir by Indian forces, and the killing and persecution of Imams;

Expressing deep concern over the escalation of tensions in Kashmir as a result of Indian military operations;

Condemning the unprovoked and indiscriminate shelling by Indian Army across the Line of Control killing and injuring innocent civilians and causing damage to property;

Supporting the efforts of the Government of Pakistan for seeking a peaceful resolution of Jammu and Kashmir dispute, keeping in view the aspirations of the Kashmiri people, through all possible means including a substantive meaningful and sustained dialogue with the Indian Government;

Welcoming the December 2, 2000 statement by Pakistan announcing maximum restraint along the LoC and inviting an APHC delegation to Pakistan to prepare the grounds for tripartite talks to resolve the Kashmir dispute peacefully;

Reaffirming the right to Freedom of Movement of Kashmiri leadership as a Fundamental human right to which they are entitled under international covenants.

Expressing serious concern at the restrictions imposed on the Freedom of Movement of Kashmiri leadership especially, denial by the Indian Government to issue travel documents to the APHC delegation.

Resolve that:

a) The people of Jammu and Kashmir shall continue their just and heroic struggle for the realization of their right to self-determination as promised to them by the international community through the United Nations Security Council resolutions;

b) The will of the people of Jammu and Kashmir expressed through a free and impartial plebiscite conducted under the auspices of the UN constitutes the sole basis for the settlement of the Jammu and Kashmir dispute.

Urge the members of the OIC to:

i) Call upon India to accept Pakistan's proposal for a meaningful and substantive dialogue on the core issue of Jammu and Kashmir.

ii) Impress upon the Indian government to desist from staging and imposing a farcical political process in Indian occupied Kashmir.

iii) Once again remind the Indian government that in Resolutions 91 (1951) and 122 (1957), the UN Security Council unambiguously affirmed that 'any action that (the Indian Government) may have taken, or might attempt to take to determine the future shape and affiliation of (of Jammu and Kashmir) would not constitute a disposition of the State'.

iv) Demand that India withdraw its army of occupation from Jammu and Kashmir and fulfill its promise of holding a free and fair plebiscite in Jammu and Kashmir under UN auspices in accordance with the relevant UN Security Council resolutions and the United

Nations Commission on India and Pakistan resolutions of 13 August 1948 and 5 January 1949.

v) Call upon India to honour the commitments made by it in order to secure the early settlement of the Jammu and Kashmir issue on the basis of the wishes of the Kashmiri people as stipulated in the relevant UN Security Council resolutions.

vi) Stress upon the Indian government to put an end to state terrorism; desist from repression; halt the practice of 'crackdowns' on Kashmiris villages and urban areas; remove military pickets and troops from Kashmiri towns and villages and fully respect the religious and cultural rights of the Kashmiri people.

vii) Call upon India to respond positively to the True Representatives of the Kashmiri people call for tripartite talks to resolve the long-standing dispute of Jammu and Kashmir in accordance with the relevant resolutions of the UN Security Council.

viii) Urge India to repeal the Armed Forces (Special Powers) Act 1958, Jammu and Kashmir Disturbed Areas Act 1992, and Jammu and Kashmir Public Safety Act 1978 in IOK, as these draconian laws give the security forces wide powers of arrest and detention and virtual impunity to commit human rights violations.

ix) Further call upon India to allow unhindered access to major Human Rights NGOs such as Amnesty International, Human Rights Watch and others to monitor and document the human rights situation in Jammu and Kashmir.

x) Urge the United Nations Commission on Human Rights to appoint a Special Rapporteur on Jammu and Kashmir.

xi) Request the OIC to renew to the Government of India its readiness to send its fact-finding and good offices missions to Jammu and Kashmir.

xii) Request the OIC Secretary General to appoint a Special Representative on Jammu and Kashmir in accordance with the OIC resolutions, adopted at the 26th ICFM at Ouagadougou and at the 27th ICFM in Kuala Lumpur, without further delay and dispatch him on a fact-finding mission to Kashmir.

xiii) Request the OIC Secretary General to convey the OIC resolutions on Jammu and Kashmir dispute to the Indian Government, the UN Secretary General, the governments of P-5 and President of the UN Security Council in order to convey the Islamic world's concern over the situation in Jammu and Kashmir and seek their role in its resolution.

xiv) Further request the OIC Secretary General to include the Kashmir dispute in the agenda of OIC's dialogue with regional and international organizations such as the UN and EU.

xv) Urge the United Nations to hold a plebiscite in Jammu and Kashmir, without further delay, in accordance with the UN Security Council resolutions.

xvi) Support that leaders of All Parties Hurriyet Conference and Kashmiri Human Rights activists should be declared as "Internationally Protected Persons".

xvii) Support the right of Freedom of Movement of Kashmiri people and the leaders of All Parties Hurriyet Conference and seeks their guaranteed protection.

xviii) Extend all possible humanitarian assistance to the people of Kashmir.

xix) Encourage the OIC to play a more active role, including humanitarian help to Kashmiri widows and children.

Appeal to all peace loving people and the nations of the world in general, and the Islamic Ummah in particular, to, urge the Indian Government to put an end to the egregious violations of the human rights of the Kashmiris, and help and support the people of Jammu and Kashmir in their struggle for the realization of their right to self-determination as promised to them under the relevant UN Security Council Resolutions.

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